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19 IN THE UNITED STATES DISTRICT COURT
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21 FOR THE NORTHERN DISTRICT OF CALIFORNIA
22
23 SAN JOSE DIVISION

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25 **TIMOTHY WAYNE SMITH,**

26 Petitioner,

27 v.

28 **JAMES YATES, Warden,**

29 Respondent.

30 C 08-0007 RMW (PR)

31 **DECLARATION OF COUNSEL IN
32 SUPPORT OF APPLICATION FOR
33 EXTENSION OF TIME TO FILE
34 RESPONSE**

35 I, Arthur P. Beever, declare under penalty of perjury as follows:

36 1. I am a Deputy Attorney General for the State of California and am assigned to
37 represent respondent in this habeas corpus case.

38 2. On April 28, 2008, this Court issued an Order to Show Cause why the petition for a
39 writ of habeas corpus should not be granted. The California Attorney General's Office in San
40 Francisco docketed the order on May 20, 2008.

41 3. I have received one prior extension of time for 60 days.

42 4. The Deputy Attorney General who was assigned to represent respondent in the state
43 courts, David Baskind, is currently offline working on a capital case. I am unfamiliar with the case.
44 I have ordered our records from our archives, and have received them. I have requested petitioner's

1 records from various state courts, and have received most of them. However, I am presently unable
2 to begin working on this case because I am preparing the respondent's brief in *Gaines v. Scribner*
3 (Ninth Circuit case number 07-17279). In the past 60 days, I filed responses in the previously
4 assigned cases of *Lowe v. Walker* (C 08-005), *Nawabi v. Hartely* (C 08-1258), and *Washington v.*
5 *Adams* (C 06-4802). I have three other previously assigned cases. Once I have completed working
6 on those cases, I will devote substantially all of my time to working on this case.

7 5. I have not attempted to contact petitioner because he is an incarcerated state prisoner
8 who is representing himself in this case.

9 6. Accordingly, I respectfully request that this Court grant an extension of time to and
10 including October 26, 2008, in which to file a response to the order to show cause.

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12 || Dated: August 27, 2008

Respectfully submitted,

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Attorney General of the State of California

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/s/ Arthur P. Beever

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